

Notice of Allowability

Application No.

10/036,959

Applicant(s)

HALLAHAN ET AL.

Examiner

Tekchand Saidha

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 19 April 2005.
2. ☒ The allowed claim(s) is/are 29 and 32-40.
3. ☒ The drawings filed on 02 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date <u>April 19 & May 17</u> . | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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Notice of Allowability

1. Applicants' papers filed on April 19, 2005, for a Request for Continued Prosecution (RCE) under 37 CFR 1.114 based on parent Application No. 10/036959 is acceptable and a RCE has been established. An action on the RCE follows.
2. Applicants' amendment and arguments filed on April 19, 2005, with the RCE request is acknowledged.
3. Claims 29-40 are pending in this application.
4. Claims **29 & 32-40** are allowed, subject to the following Examiner's Amendment.
5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael A. Willis on June 17, 2005.

Cancel claims 30-31 without prejudice.

Amend claim 29 as follows

Claim 29, line 3, delete '85%' and replace with '95%'.

6. The following is an examiner's statement of reasons for allowance:

This Application provides unobvious polynucleotide sequence encoding a polypeptide having at least 95% sequence identity to a polypeptide of SEQ ID

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NO: 8 (411 amino acids in length), and having acetyl-coA acetyltransferase activity. Vectors, host cells, plant or seed transformed with the said polynucleotide is also provided. Applicants' arguments were considered in view of the guidance provided by the prior art, the existing close homology among known sequences, retention of enzyme activity & guidance to selective modification(s), is found to be persuasive in view of the Examiner's amendment to the claims. It is determined that one of skill in the art based upon the teachings of the prior art (see prior office actions and Applicants arguments filed April 19, 2005), will be able to practice the entire scope of the claims.

No prior art reference or sequence of record, however, taken alone or in combination teach the claimed invention or provide motivation to one of ordinary skill in the art to use the skills available in the area of enzymology or molecular biology, to make the invention obvious.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Applicants Information Disclosure Statement(s) filed April 19, 2005 & May 17, 2005 is acknowledged. A signed copy of PTO-1449 is enclosed here.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tekchand Saidha (Ph.D.) whose

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telephone number is (571) 272-0940. The examiner can normally be reached on Monday-Friday from 8:15 am to 4:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy, can be reached at (571) 272-0928. The fax phone number for this Group in the Technology Center is 703 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 571 272-1600.



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June 17, 2005